by their own admission reliably discriminate between a still-born infant and one who lived for some time after birth.[244]

We might conclude from Percival's account of such perplexing issues as insanity, suicide, abortion and infanticide that physicians had little to offer legal proceedings concerning these matters, at least in the way of expert moral, legal or medical knowledge. Such a conclusion would, however, deny the value of a medical training which emphasized a sceptical approach to all claims of scientific knowledge and which endowed medical men with sufficient authority to discredit much of what had formerly passed for forensic evidence. Physicians like Percival, moreover, were keen students of the law and thoroughly conversant with Blackstone's *Commentaries.* Like many of their reforming counterparts in the other liberal professions, they were clearly disturbed by the arbitrary and unsystematic nature of contemporary statute law.[245] This, combined with their acknowledgement of the lack of scientific rigour in forensic matters, left physicians like Percival with little to guide them but the objectivity they had been trained to bring to all their medical observations, a sense of justice, in a system where even the presumption of innocence was often lacking, pity and mercy for the weak and unfortunate. These at least were the qualities that Percival's ethics emphasized. Whether or not he, or his colleagues, actually demonstrated them in the courts of the land is an interesting question which requires further historical research.

Gloomy Prognostications

Percival, as we have seen, touched briefly on many issues of interest to contemporary as well as modern medical ethics. His most comprehensive treatment, however, was reserved for the problem of truth-telling. This discussion, which he placed in his *Notes and Illustrations*, is the most interesting sample we have of his particular style of moralizing. For this reason, we will conclude our account of his ethics with the practical moralist at work on a topic he referred to as a 'nice and important piece of casuistry'.[246]

That a physician should be 'the minister of hope and comfort to the sick',[247] and at the same time truthful about the nature of his patient's condition was (and still is) a fundamental problem in medical ethics. As Percival explained,

> every practitioner must find himself occasionally in circumstances of very delicate embarrassment with respect to the contending obligation of veracity and professional duty: And when such trials occur, it will behove him to act on fixed principles of rectitude,

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> derived from previous information, and serious reflection.[248]

Percival's own principles or rules of veracity were, as he noted, derived in part from his investigations into the works of the great moralists and from his own reflections on this matter. He explained that from Cicero and Horace to Hutcheson and Paley, however, divergent views had been held. Cicero, for example, was willing to allow that there were limits to 'the absolute and immutable obligations of fidelity and truth'. Later philosophers such as St Augustine insisted that truth was an absolute duty admitting of no exception. He even claimed, Percival wrote, that 'he would not utter a lie, though he were assured of gaining Heaven by it'.[249] Percival found this position unnecessarily zealous. 'For a lie', he suggested, 'is always understood to consist in a *criminal* breach of truth, and therefore under no circumstances can be justified.' He ascribed to Grotius the popular view that:

> falsehood may lose the essence of lying, and become even praise-worthy, when the adherence to truth is incompatible with the practice of some other virtue of still higher obligation.[250]

Other great natural lawyers had extended or clarified these questions. Pufendorf, for example, raised the matter of whether there were groups of persons to whom the duty of veracity was not owed. He suggested that children, the very sick and overly emotional and timid patients were unable to deal with the naked or 'downright' truth and that very often telling such patients the truth would 'incapacitate us for procuring that lawful end we propose to ourselves for their good'. And 'when a man is desirous, and it is his duty, to do a piece of service, he is not bound to take measures that will certainly render his attempts unsuccessful'.[251]

In this view, a lie was not a criminal breach of truth if it was uttered in order to bring about a higher good incompatible with the truth, and second, if it did not conflict with the right of the person to whom it was directed. In the first case, Percival's examples were of such persons as the gravely ill who might become more so or even die if the truth were told to them and in the second case a child or an idiot who had to be protected. Supporting this view he quoted Hutcheson from his *System of Moral Philosophy*:

> No man censures a physician for deceiving a patient too much dejected, by expressing good hopes of him ... Wise men allow this liberty to a physician in whose skill and fidelity they trust: Or if they do not, there may be a just plea from necessity.[252]

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There was nevertheless a particular argument in the discourse on lying which presented a problem to moralists and that was the maxim that 'we must not do evil that good may come of it'.[253] Thomas Gisborne in his correspondence with Percival and in his *Enquiries into the Duties of Men* had rebuked his friend for not emphasizing the Christian rule which, he argued, was 'clear, positive and universal'. While he sympathized with the physician's and surgeon's temptation to use more encouraging language than truth would allow, he insisted that they are bound to guard themselves against such temptations. For Gisborne it was wrong to comfort a sick person with lies about his condition, primarily, it seems, because this would prevent the expiring patient from turning his thoughts to religion.[254] Comfort was also the province of the clergyman and it was, he suggested, the duty of the physician to 'smooth the way for the Clergyman's approach', a goal which could not easily be achieved unless the physician told his patients the truth about their state of health.

On the other hand, Hutcheson had argued against the inherent logic of the view that evil may not be done that good may come of it. There were, he claimed, many cases in which people agreed that actions generally thought to be evil or bad in themselves might be justified for a higher end or purpose.

> It is evil to hazard life without a view to some good; but when it is necessary for a public interest, it is very lovely and honourable. It is criminal to expose a good man to danger for nothing; but it is just even to force him into the greatest dangers for his country. It is criminal to occasion any pains to innocent persons, without a view to some good: but for restoring of health we reward chirurgeons for scarifyings, burnings, and amputations.[255]

In the end, Percival, true to the Dissenting style, informed his readers that each person would have to reach his own decisions on the matter based on the best available evidence.[256] To facilitate the search for the truth he suggested that each should explore the views of modern authors such as Grotius, Pufendorf, Grove, Balguy, Cambray (Fénelon), Butler, Hutcheson, Paley and Gisborne.[257] He also offered some 'brief considerations' of those principles by which he had always tried to govern his own conduct. Moral truth, he explained, had to be viewed from two different perspectives or references. The first reference was 'to the party to whom the truth is delivered' and the second was 'the individual by whom it is uttered'. The first, because it involved two parties, in this case the physician

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